



February 27, 2012

Jacob Shemkovitz
MuckRock News
DEPT MR 1054
P.O. Box 55819
Boston MA 02205-5819

Dear Mr. Shemkovitz:

This is in response to your Freedom of Information Act request of February 24, 2012 which was received in this office on February 27, 2012. Your request has been assigned reference number NW 37451.

We forwarded your request for FBI File number 26-HQ-408377 regarding Jack Kirby to the appropriate NARA office for further action.

You asked for a waiver of the fees normally charged for providing researchers with copies of archival records. The FOIA's fee and fee waiver provisions, however, do not apply to archival records. The FOIA states in the section on fees "Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records". (5 U.S.C. 552 (a)(4)(vi)). The fee statute, 44 U.S.C. 2116(c), does apply. It does not authorize NARA to waive reproduction charges for individual requesters.

Our inability to grant you the requested fee waiver does not constitute a denial for the purposes of the FOIA. If you believe this to be a denial, you may appeal by writing within 35 days of receipt of this letter to the Deputy Archivist of the United States, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001 and explain why you think our fee waiver denial does not meet the requirements of the FOIA. Please note on your request and the envelope that this is a Freedom of Information Act Appeal.

Please advise us of any change of address that may occur during the time that it takes to complete your case. To contact us regarding a change in your contact information or for information regarding your case, we can be reached by e-mail at specialaccess_foia@nara.gov or you can call our FOIA customer service number at (301) 837-3190. You may also write to us at the address above, room 6350. In the event any correspondence to you from this office is returned as undeliverable, no forwarding address, we will presume you are no longer interested in pursuing the case and the case will be closed.

NATIONAL ARCHIVES *and*
RECORDS ADMINISTRATION

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